

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
DARNELL PEREZ

Petitioner,

-against-

SODEXO, INC

Respondent.  
-----X

**PETITION FOR  
REMOVAL**

**Jury trial demanded  
ECF case**

**Docket No.:**

Respondent, SODEXO, INC. (hereinafter “SODEXO”) petitions for the removal of this action from the Supreme Court of the State of New York, County of Queens, to the United States District Court, Eastern District of New York, respectfully shows this Honorable Court:

**FIRST:** Darnell Perez (“Petitioner”) commenced an action against the above-named respondent in a Civil Action brought against it in the Supreme Court of the State of New York, County of Queens, entitled:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

-----X  
DARNELL PEREZ

Plaintiff,

-against-

SODEXO, INC.

Defendant.  
-----X

Index No. 714287-2020

A copy of the Summons and Complaint in this action is annexed hereto as ***Exhibit*** “A” and made a part hereof. Upon information and belief, the foregoing constitutes all process, pleadings, and orders allegedly served upon party in this action.

**SECOND:** This is an action of civil nature in which the District Courts of the United States have been given original jurisdiction in that there exists diversity of citizenship between the respondent and the petitioner and the amount in controversy exceeds the sum of \$75,000.00 exclusive of interests and costs. Accordingly, jurisdiction exists in the District Court of the United States as provided for by 28 U.S.C. §1332.

**THIRD:** Under the provision of 28 U.S.C. §1441, the right exists to remove this civil action from the Supreme Court of the State of New York, County of Queens to the United States District Court for Eastern District of New York, which embraces the place where this action is pending. In her complaint, Petitioner sought judgment as a result of personal injuries allegedly sustained on February 28, 2020 at Flushing Hospital, located at 4500 Parsons Boulevard, Flushing, New York.

**FOURTH:** The action involves a controversy between citizens of different states. Petitioner is and was, at the commencement of the action, a citizen of the State of New York. The Respondent, Sodexo, Inc. is a foreign Business Corporation with its principle place of business in Gaithersburg, Maryland.

**FIFTH:** Upon information and belief, Petitioner's alleged amount in controversy will be claimed to exceed the \$75,000.00 threshold. Petitioner's Complaint did not specify the amount of damages because under NY State CPLR Section 3017(c), a plaintiff in a personal injury matter in the Supreme Court of the State of New York is not permitted to asset the damages amount in the Complaint.

**SIXTH:** In his Complaint, Petitioner alleges that he was severely injured, bruised and wounded, suffered, still suffers and will continue to suffer physical pain and

bodily injuries, and became sick, sore, lame and disabled for a considerable amount of time. While Petitioner's claims are expressly denied by SODEXO, if the Petitioner's allegations are proven, the claimed amount in controversy could exceed \$75,000. Accordingly, there exists original jurisdiction in the District Courts of the United States as provided in 28 U.S.C. Section 1332.

**SEVENTH:** The instant petition is being filed within thirty days of learning that the amount in controversy is claimed to exceed the Federal Court's jurisdictional limit in accordance with Fed. R. Civ. P. Section 1446(b). This action is also being removed within a year of commencement of the Action pursuant to Fed. R. Civ. P. Section 1446(b). No party to this action will be prejudiced by removing the Action.

**EIGHTH:** In accordance with the requirements of 28 U.S.C. § 1446, SODEXO attaches herewith and incorporates herein by reference copies of the following items served in this action:

- a. Petitioner's Summons and Complaint against SODEXO for damages filed in the Supreme Court of the State of New York, County of Queens bearing Index Number 714287-2020 (*Exhibit "A"*)

**NINTH:** By reason of the forgoing, the respondent desires and is entitled to have this action removed from the Supreme Court of the State of New York, County of Queens to the United States District Court for the Eastern District of New York, such being the district where this suit is pending.

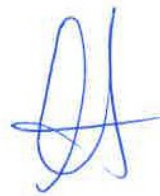
**TENTH:** Concurrent with the filing of service and petition for removal, SODEXO is serving this petition for removal upon Petitioner's attorney, and filing a copy of this

petition for removal with the Clerk of the Court for the Supreme Court of the State of New York County of the Queens.

**WHEREFORE**, respondent, SODEXO, INC prays that the above entitled action now pending against it in the Supreme Court of the State of New York, County of Queens be removed there from that Court.

Dated: New York, New York  
September 3, 2020

By:

A handwritten signature in blue ink, appearing to be 'ERIN R. FROST', written over a horizontal line.

---

ERIN R. FROST, ESQ.  
CULLEN AND DYKMAN  
Attorneys for Respondents  
SODEXO, INC.  
44 Wall Street  
New York, New York 10005  
(212) 701-4169  
File No: 23008-25

To: Elefterakis, Elefterakis & Panek  
Attorney for Plaintiff  
80 Pine Street, 38<sup>th</sup> Floor  
New York, NY 10005  
Via Email: [nick@elefterakislaw.com](mailto:nick@elefterakislaw.com)